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C O N F I D E N T I A L SECTION 01 OF 02 MANILA 003692

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STATE FOR EAP/MTS
STATE PASS TO USTR FOR BWEISEL AND DKATZ
USDOC FOR 4430/ITA/MAC/SBERLINGUETTE
USDOC PASS TO USPTO FOR PFWLER
BANGKOK FOR DOJ CHRIS SONDERBY

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TAGS: [ECON](#) [ETRD](#) [EINV](#) [KIPR](#) [RP](#)
SUBJECT: SENIOR IP JUDGE DEMOTED AMID RUMORS OF CORRUPTION

Classified By: ECONOMIC COUNSELOR LARRY MEMMOTT FOR REASONS 1.4 B AND D

SUMMARY

¶1. (C) The Supreme Court of the Philippines recently demoted Judge Antonio Eugenio, who was the senior executive judge assigned to handle intellectual property rights (IPR) cases. Citing "the interests of the service," the Supreme Court stripped Eugenio of his executive judicial authority and directed that he no longer handle IPR cases. Contacts within the GRP and the private sector report rumors that the demotion stemmed from the influence over the Supreme Court of a powerful Chinese businessman over the Supreme Court who was unhappy with the raids targeting his malls. The Supreme Court decision raises transparency concerns and may make judges and prosecutors more cautious when dealing with IPR cases that may negatively affect powerful individuals. END SUMMARY.

BACKGROUND

¶2. (U) As part of an effort to improve the prosecution and handling of IPR cases in the Philippines and to demonstrate the GRP's commitment to better IPR protection during the Special 301 out-of-cycle review, in December 2005 the GRP designated three judges to handle all IPR cases in metro Manila. One of these judges was Senior Executive Judge Antonio Eugenio. As the only one of the three judges with executive authority, Judge Eugenio's position carried special powers including the ability to issue warrants within a 24-hour period for any jurisdiction in the country. Non-executive judges can only issue a warrant once the case has been assigned to them, a process that can take several days to several weeks, increasing the risk of information leaking with respect to potential arrests. In addition, they are limited to issuing warrants within their jurisdictions.

¶3. (U) Since Judge Eugenio could issue warrants expediently for any jurisdiction in the country, he was receiving the majority of warrant applications for violations of IP laws. The Optical Media Board, headed by Chairman Edu Manzano, filed almost all of its warrant applications with Judge Eugenio because they could be assured of prompt action. He approved most of OMB's requests and quickly, Manzano said.

¶4. (SBU) In late July, the Supreme Court rescinded Judge Eugenio's executive authority, reassigning him to another

court and stating that he would no longer handle IPR cases. Judge Eugenio told econoff the decision was justified as "in the interest of the service." However, Eugenio said a court administrator told him privately that the Supreme Court felt he had an "overly burdensome workload." Immediately prior to the decision, the Supreme Court requested a review of all warrants issued by Judge Eugenio. The results showed that more than 95% of those warrants resulted in seizures of pirated optical media or capital equipment used to produce the pirated material. Judge Eugenio said he certainly never complained about the workload and the decision is highly unusual given his success rate. Judge Eugenio has since been replaced by Senior Executive Judge Reynaldo Ros, who is new to IPR cases.

REPORTS SUGGEST EXTERNAL INFLUENCE OVER SUPREME COURT

15. (C) We have been told several different versions of the same story as to the possible underlying reasons for Judge Eugenio's demotion. According to Manzano, a number of the warrants issued by Judge Eugenio resulted in a series of raids by the OMB at malls owned by an influential Filipino-Chinese businessman, Mariano Nocom. Nocom is well connected to Supreme Court Justice Artemio Panganiban, Manzano said, and Nocom complained to him about the high raid activity and asked that the Supreme Court intervene.

16. (C) The regional representative of the Motion Picture Association of America (MPAA) described a slightly different version of events, which he said is based on reliable information from a contact who was directly involved in the process. In this version, Nocom plays golf with two members of the Supreme Court and exerted influence through them for

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Judge Eugenio's demotion. According to MPAA, all Supreme Court justices voted in favor of the decision except for the Chief Justice, who reportedly abstained.

17. (C) Several other sources in the private sector also speculate that Judge Eugenio's dismissal was based on the influence of a powerful businessman over the Supreme Court. Judge Eugenio himself told econoff he was specifically asked a few months ago by a "bigwig of the Supreme Court" to stop issuing warrants against Chinese mall owners. Eugenio refused and was subsequently ordered to submit his entire caseload for review.

18. (SBU) Nocom owns large amounts of real estate including much of the land around Ninoy Aquino National Airport and various malls and shopping complexes throughout Manila. He owns several malls in Quiapo, an area notorious for its sale of pirated optical media and counterfeit goods. In a 2004 local news article, Nocom announced he would ban the sale of all pirated optical media from his establishments and reportedly said "to succeed against IPR pirates, legitimate business groups should also do their part." Nocom also owns substantial shares in Banco de Oro, one of the major local banking institutions. The extent of Nocom's holdings and wealth are not known, but he is considered extremely wealthy and influential, Manzano said.

19. (C) Many contacts in the IPR enforcement agencies and the private sector expressed concern over Judge Eugenio's demotion. While a few contacts found him unhelpful on a specific case, most say Judge Eugenio was a firm ally in the fight against IPR violators and his demotion is a significant loss. Eugenio said he did not fight the decision because he was "just a regional trial court judge and we don't fight City Hall." According to Manzano, Judge Eugenio also backed down because of personal political considerations. His wife works for a Supreme Court Justice.

COMMENT

¶10. (C) With more than 95% of Judge Eugenio's warrants resulting in successful raids against IP violators, his demotion does not make sense, except as a corrupt favor or a means of reducing IPR protection. The demotion will likely send a strong deterrent message to other judges and prosecutors working IP cases in its implication that those with power and influence may be able to negatively affect an individual's career if they are unhappy with decisions on IPR cases.

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